

Exhibit “G”

Betty LeheW

September 07, 2016

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ARTIS ELLIS)
)
PLAINTIFF,)
)
VS.) C.A. NO. 4:14-cv-02126
)
EDUCATIONAL COMMISSION)
FOR FOREIGN MEDICAL)
GRADUATES)
)
DEFENDANT.)

ORAL DEPOSITION OF

BETTY LEHEW

SEPTEMBER 7, 2016

Betty Leheuw

September 07, 2016

Pages 2 to 5

<p style="text-align: right;">Page 2</p> <p>1 ORAL DEPOSITION OF BETTY LEHEW, produced as a</p> <p>2 witness at the instance of the Plaintiff, and duly</p> <p>3 sworn, was taken in the above-styled and numbered cause</p> <p>4 on SEPTEMBER 7, 2016, from 11:09 a.m. to 12:06 p.m.,</p> <p>5 before Michelle K. Miller, CSR, RPR in and for the</p> <p>6 State of Texas, reported by machine shorthand, at the</p> <p>7 offices of Morgan, Lewis, & Bockius, LLP, 1000</p> <p>8 Louisiana, Suite 4000, Houston, Texas 77002, pursuant</p> <p>9 to the Federal Rules of Civil Procedure and the</p> <p>10 provisions stated on the record or attached hereto.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 INDEX</p> <p>2</p> <p>3 PAGE</p> <p>4 Appearances..... 3</p> <p>5</p> <p>6 BETTY LEHEW</p> <p>7 Examination by Ms. Harrold..... 5</p> <p>8</p> <p>9 Signature and Changes..... 51</p> <p>10 Reporter's Certificate..... 53</p> <p>11</p> <p>12 EXHIBITS</p> <p>13</p> <p>14 NO. DESCRIPTION PAGE</p> <p>15 1 Policy and Procedures 13</p> <p>16 Manual</p> <p>17 2 Policy and Procedures 23</p> <p>18 Manual</p> <p>19 3 Email String 44</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 3</p> <p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 FOR THE PLAINTIFF:</p> <p>4 Mr. Alfonso Kennard, Jr.</p> <p>5 Ms. Keenya R. Harrold</p> <p>6 Kennard Richard</p> <p>7 2603 Augusta Drive, Suite 1450</p> <p>8 Houston, Texas 77057</p> <p>9 Tel: 713.742.0900</p> <p>10 Fax: 713.742.0951</p> <p>11 Email: alfonso.kennard@kennardlaw.com</p> <p>12 keenya.harrold@kennardlaw.com</p> <p>13</p> <p>14 FOR THE DEFENDANT:</p> <p>15 Ms. Erin E. O'Driscoll</p> <p>16 Morgan, Lewis, & Bockius, LLP</p> <p>17 1000 Louisiana, Suite 4000</p> <p>18 Houston, Texas 77002</p> <p>19 Tel: 713.890.5169</p> <p>20 Fax: 713.890.5001</p> <p>21 Email: erin.odriscoll@morganlewis.com</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>ALSO PRESENT:</p> <p>Ms. Artis Ellis</p>	<p style="text-align: right;">Page 5</p> <p>1 BETTY LEHEW,</p> <p>2 having been first duly sworn, testified as follows:</p> <p>3 EXAMINATION</p> <p>4 BY MR. KENNARD:</p> <p>5 Q. Ms. LeHew, my name is Alfonso Kennard. How</p> <p>6 are you today?</p> <p>7 A. Good. How are you?</p> <p>8 Q. All right, thank you. You understand that I</p> <p>9 represent Artis Ellis in this lawsuit, correct?</p> <p>10 A. Yes.</p> <p>11 Q. What is your title?</p> <p>12 A. Assistant Vice President of Human Resources.</p> <p>13 Q. Are you at the top of the food chain when it</p> <p>14 comes to human resources?</p> <p>15 A. Yes.</p> <p>16 Q. You might want to speak a little louder to</p> <p>17 make sure that the court reporter can hear you well</p> <p>18 enough to transcribe what you're saying. Okay?</p> <p>19 A. Okay.</p> <p>20 Q. All right. Have you ever given your</p> <p>21 deposition before?</p> <p>22 A. Yes.</p> <p>23 Q. How many occasions?</p> <p>24 A. Probably three or four.</p> <p>25 Q. Okay. So you know the general rules?</p>

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<p style="text-align: right;">Page 6</p> <p>1 A. Yes.</p> <p>2 Q. Okay. I'll just ask that you allow me to</p> <p>3 finish asking my question before you answer; is that</p> <p>4 fair?</p> <p>5 A. Yes.</p> <p>6 Q. And if you don't understand a question, will</p> <p>7 you let me know?</p> <p>8 A. Yes.</p> <p>9 Q. And please make sure to give verbal answers.</p> <p>10 A. Okay.</p> <p>11 Q. Okay. Were you involved in the termination of</p> <p>12 Ms. Ellis?</p> <p>13 A. I'm not sure exactly what you mean by</p> <p>14 "involved."</p> <p>15 Q. Were you a decision maker?</p> <p>16 A. No.</p> <p>17 Q. Who was the decision maker?</p> <p>18 A. Nancy Ambrose.</p> <p>19 Q. Okay. And I'm going to need you to speak up.</p> <p>20 A. Nancy Ambrose.</p> <p>21 Q. Okay. Did Ms. Ambrose consult with you before</p> <p>22 terminating Ms. Ellis?</p> <p>23 A. Yes, she did.</p> <p>24 Q. Can you tell me the basis of -- or tell me</p> <p>25 what you-all discussed.</p>	<p style="text-align: right;">Page 8</p> <p>1 -- assistant vice president in charge of</p> <p>2 human resources --</p> <p>3 A. Uh-huh.</p> <p>4 Q. -- do you think it's important to conduct</p> <p>5 internal investigations relating to employees such as</p> <p>6 Ms. Ellis?</p> <p>7 A. I'm not sure what you mean by that.</p> <p>8 Q. Okay. What was Ms. Ellis' position prior to</p> <p>9 her termination?</p> <p>10 A. Center manager.</p> <p>11 Q. So she ran a center?</p> <p>12 A. Yes.</p> <p>13 Q. In Houston?</p> <p>14 A. Yes.</p> <p>15 Q. Do you think it's prudent to investigate</p> <p>16 concerns in your human resources function that relate</p> <p>17 to someone that is a manager for an entire center?</p> <p>18 A. I'm not sure what you mean.</p> <p>19 Q. Okay. Do you think it is within your function</p> <p>20 to investigate claims that are made against a center</p> <p>21 manager --</p> <p>22 MS. O'DRISCOLL: Objection.</p> <p>23 Q. (BY MR. KENNARD) -- in your function as the</p> <p>24 human resources professional for the company?</p> <p>25 MS. O'DRISCOLL: Objection, form; asked</p>
<p style="text-align: right;">Page 7</p> <p>1 A. Nancy shared with me some issues that were</p> <p>2 uncovered at the center and expressed those issues to</p> <p>3 Artis, who was given an opportunity to explain them,</p> <p>4 and Nancy looked into them further and found that it</p> <p>5 was grounds for termination.</p> <p>6 Q. Okay. Did you agree with her assessment?</p> <p>7 A. Yes.</p> <p>8 Q. Did you review -- strike that question.</p> <p>9 Did you do -- sorry -- did you do</p> <p>10 anything to independently confirm what Ms. Ambrose had</p> <p>11 said to you about Ms. Ellis?</p> <p>12 A. I'm not sure what you mean.</p> <p>13 Q. Did you investigate anything relating to the</p> <p>14 issues that Ms. Ambrose raised about Ms. Ellis?</p> <p>15 A. No. That's not my role.</p> <p>16 Q. What is your role when someone comes to you</p> <p>17 with recommending termination of an employee?</p> <p>18 A. To hear what the manager has to say. To make</p> <p>19 sure that the manager has expressed those issues and</p> <p>20 concerns with the employee, and that the employee has</p> <p>21 had a chance to respond. That's really kind of what</p> <p>22 the role is.</p> <p>23 Q. Okay. As the director of human resources --</p> <p>24 A. I'm the assistant vice president.</p> <p>25 Q. Okay. I'm sorry.</p>	<p style="text-align: right;">Page 9</p> <p>1 and answered.</p> <p>2 A. I'm not sure I understand what you mean,</p> <p>3 "claims."</p> <p>4 Q. (BY MR. KENNARD) Okay. So Ms. Ambrose -- you</p> <p>5 testified already that Ms. Ambrose raised concerns to</p> <p>6 you about Ms. Ellis; is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And you have stated that you did not</p> <p>9 independently investigate those claims; is that</p> <p>10 correct?</p> <p>11 A. I did not investigate the claims that</p> <p>12 Ms. Ambrose brought to my attention, no.</p> <p>13 Q. Regarding Ms. Ellis?</p> <p>14 A. Right.</p> <p>15 Q. So my question to you -- in your function as</p> <p>16 the top HR person for the company, my question to you</p> <p>17 is: Do you think it would have been prudent to</p> <p>18 investigate the claims that Ms. Ambrose made regarding</p> <p>19 Ms. Ellis who, at the time, was a center manager?</p> <p>20 MS. O'DRISCOLL: Objection, form; asked</p> <p>21 and answered.</p> <p>22 MR. KENNARD: She keeps telling me she</p> <p>23 doesn't understand what I'm asking her, so she hasn't</p> <p>24 answered. So I'm asking it again.</p> <p>25 Q. (BY MR. KENNARD) You can answer my</p>

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<p style="text-align: right;">Page 10</p> <p>1 question --</p> <p>2 A. Repeat it again.</p> <p>3 Q. I'll have the court reporter repeat the</p> <p>4 question to you.</p> <p>5 (The requested portion was read back.)</p> <p>6 A. No. That is not my role.</p> <p>7 Q. (BY MR. KENNARD) Whose role is that? Is</p> <p>8 there someone else in human resources that would</p> <p>9 otherwise investigate?</p> <p>10 A. No. We don't investigate a decision for</p> <p>11 termination.</p> <p>12 Q. Okay. Were you aware of Ms. Ellis' medical</p> <p>13 issues?</p> <p>14 MS. O'DRISCOLL: Objection, form.</p> <p>15 A. I was aware that she had taken FMLA for</p> <p>16 medical reasons, yes.</p> <p>17 Q. (BY MR. KENNARD) Okay. Were you aware that</p> <p>18 she was terminated from her employment as soon as she</p> <p>19 came back from FMLA?</p> <p>20 A. She was not.</p> <p>21 Q. She wasn't?</p> <p>22 A. No. She was put on administrative leave.</p> <p>23 Q. Okay. She was put on administrative leave?</p> <p>24 A. Yes.</p> <p>25 Q. Did she ever return after that administrative</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Let me get this right. So the day that she</p> <p>2 returns from leave, these issues are raised to her,</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. And that same day, she was put on</p> <p>6 administrative leave, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Do you think that gave her an ample</p> <p>9 opportunity to respond to those issues in that same day</p> <p>10 before being placed on administrative leave?</p> <p>11 A. She -- we were -- sat with her for two hours</p> <p>12 going over the issues, and she responded to each one</p> <p>13 that we went through and gave a response enough that</p> <p>14 her managers had to look into what she was saying for</p> <p>15 each issue.</p> <p>16 Q. So you made the decision that day to put her</p> <p>17 on administrative leave, right?</p> <p>18 MS. O'DRISCOLL: Objection.</p> <p>19 A. I did not make the decision.</p> <p>20 Q. (BY MR. KENNARD) You acquiesced to that</p> <p>21 decision; is that correct?</p> <p>22 MS. O'DRISCOLL: Objection, form.</p> <p>23 A. What do you mean?</p> <p>24 Q. (BY MR. KENNARD) You didn't do anything to</p> <p>25 stop it?</p>
<p style="text-align: right;">Page 11</p> <p>1 leave?</p> <p>2 A. No, she did not.</p> <p>3 Q. So when was she put on administrative leave?</p> <p>4 A. On the day that she returned, after a meeting.</p> <p>5 Q. On the day that she returned from FMLA leave,</p> <p>6 correct?</p> <p>7 A. After a meeting with her supervisors.</p> <p>8 Q. And did she ever return to work after that</p> <p>9 administrative leave?</p> <p>10 A. No.</p> <p>11 Q. As the head of HR for the company, did that</p> <p>12 not raise any concerns for you?</p> <p>13 A. Not sure what you mean by that.</p> <p>14 Q. Were you concerned that she was put on</p> <p>15 administrative leave the day she got back from FMLA</p> <p>16 leave?</p> <p>17 A. No, I was not.</p> <p>18 Q. Why not?</p> <p>19 A. Because she was given the opportunity to</p> <p>20 explain the issues that were presented to her, and the</p> <p>21 explanations were not clear enough to erase or</p> <p>22 eliminate the issues, so they had to be looked into by</p> <p>23 her supervisors.</p> <p>24 Q. When were those issues presented to her?</p> <p>25 A. On the day that she returned from leave.</p>	<p style="text-align: right;">Page 13</p> <p>1 A. No.</p> <p>2 Q. Okay. What is the policy for administrative</p> <p>3 leave at the company?</p> <p>4 A. When the --</p> <p>5 Q. Yes, hold on. Let me make sure that you</p> <p>6 understand my question, what I'm asking for and what</p> <p>7 I'm looking for.</p> <p>8 A. Okay.</p> <p>9 Q. What is the policy for placing someone on</p> <p>10 administrative leave at the company?</p> <p>11 A. I can't quote the whole policy without looking</p> <p>12 at it, but I can summarize it.</p> <p>13 MR. KENNARD: I'm going to mark this as</p> <p>14 Exhibit 1 to your deposition.</p> <p>15 (Exhibit 1 was marked.)</p> <p>16 Q. (BY MR. KENNARD) Please review that document,</p> <p>17 and let me know when you've had a chance to review it.</p> <p>18 Do you recognize this document?</p> <p>19 A. Yes.</p> <p>20 Q. What is this document?</p> <p>21 A. This is our corrective action policy.</p> <p>22 Q. Can you go to page 2 of 5, please, of the</p> <p>23 correction action -- corrective action policy?</p> <p>24 A. Page what?</p> <p>25 Q. Page 2 of 5. It's numbered here at the top.</p>

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<p style="text-align: right;">Page 14</p> <p>1 A. Oh. Okay.</p> <p>2 Q. Do you see the section -- the subsection</p> <p>3 called "Administrative leave"?</p> <p>4 A. Yes. The definition.</p> <p>5 Q. Okay. Can you read the administrative leave</p> <p>6 policy for me, please?</p> <p>7 MS. O'DRISCOLL: Objection, form.</p> <p>8 A. Well, it's not the policy. It's just the</p> <p>9 definition.</p> <p>10 Q. (BY MR. KENNARD) Okay. Can you -- can you</p> <p>11 read the definition of -- of -- for administrative</p> <p>12 leave?</p> <p>13 A. Yes. "Administrative leave is used when a</p> <p>14 supervisor/manager perceives that the employee may</p> <p>15 cause a potential threat to themselves or others or</p> <p>16 when the employee is behaving in a disruptive and/or</p> <p>17 unruly manner that management is not able to handle.</p> <p>18 The employee should be sent home for the day with pay,</p> <p>19 pending investigation of the situation by the</p> <p>20 supervisor/manager. HR must be informed when an</p> <p>21 employee has been put on administrative leave to assist</p> <p>22 with the investigation."</p> <p>23 Q. Okay. So you're HR, right?</p> <p>24 A. Yes.</p> <p>25 Q. Did you assist with an investigation?</p>	<p style="text-align: right;">Page 16</p> <p>1 administrative leave in light of this definition.</p> <p>2 A. The part that says the employee is behaving in</p> <p>3 a disruptive or unruly manner that management is not</p> <p>4 able to handle.</p> <p>5 Q. Okay. How was she acting in a disruptive or</p> <p>6 unruly manner that management was unable to handle?</p> <p>7 A. At that moment, she wasn't. The reports that</p> <p>8 they were investigating were things that they felt they</p> <p>9 were not able to handle and investigate with her in the</p> <p>10 center.</p> <p>11 Q. But she had been on FMLA leave prior to being</p> <p>12 placed on administrative leave, correct?</p> <p>13 A. Yes. I'm not talking about when she was on</p> <p>14 the administrative leave. The issues that were</p> <p>15 uncovered were not issues that occurred when she was on</p> <p>16 the administrative leave. They were things that</p> <p>17 occurred prior to that.</p> <p>18 Q. Okay. But she was allowed back into the</p> <p>19 facility, correct?</p> <p>20 A. That morning, yes.</p> <p>21 Q. That morning, was she acting in a disruptive</p> <p>22 or unruly manner?</p> <p>23 A. That morning, she was not.</p> <p>24 Q. All right. Let's look at "Termination of</p> <p>25 employment."</p>
<p style="text-align: right;">Page 15</p> <p>1 A. No, I did not.</p> <p>2 Q. Okay. And did -- were you aware -- or did you</p> <p>3 believe that Ms. Ellis was a potential threat to</p> <p>4 herself or others?</p> <p>5 A. No, I did not.</p> <p>6 Q. Okay. And you realize that she had just come</p> <p>7 back from brain surgery, right?</p> <p>8 MS. O'DRISCOLL: Objection, form.</p> <p>9 A. I realized she just came back from a procedure</p> <p>10 from FMLA.</p> <p>11 Q. (BY MR. KENNARD) Okay. Is there anything in</p> <p>12 this administrative leave policy that states an</p> <p>13 employee should be placed on administrative leave</p> <p>14 because a manager perceives she's having work issues?</p> <p>15 MS. O'DRISCOLL: Objection, form;</p> <p>16 mischaracterizes the document.</p> <p>17 A. I'm not sure what you mean by "work issues."</p> <p>18 Q. (BY MR. KENNARD) Issues with her employment.</p> <p>19 Does -- is that stated anywhere in this</p> <p>20 definition of "Administrative leave"?</p> <p>21 A. Not specifically the way you worded it.</p> <p>22 Q. Well, anywhere in here -- how would you word</p> <p>23 it?</p> <p>24 A. How would I word what?</p> <p>25 Q. To justify Ms. Ellis being placed on</p>	<p style="text-align: right;">Page 17</p> <p>1 A. Uh-huh.</p> <p>2 Q. Can you read that definition for me?</p> <p>3 A. Yes. "Termination of employment is a</p> <p>4 consequence for not meeting the expectations of a" --</p> <p>5 "of in" -- sorry, that's a typo -- "the formal</p> <p>6 corrective action process. Termination occurs when the</p> <p>7 employee has failed to correct a problem or situation</p> <p>8 despite receipt of a written warning and/or a final</p> <p>9 written warning. In addition to foregoing -- to the</p> <p>10 foregoing, termination may occur immediately without</p> <p>11 prior corrective action, depending on the nature,</p> <p>12 frequency, and severity of the violation. Termination</p> <p>13 decisions must be reviewed with human resources before</p> <p>14 they take effect."</p> <p>15 Q. Did you review the decision to terminate</p> <p>16 Ms. Ellis before it took effect?</p> <p>17 A. Yes.</p> <p>18 Q. And you approved it, correct?</p> <p>19 A. Yes. Well, I didn't approve it. I'm not</p> <p>20 someone that approved it. It's not an approval. It's</p> <p>21 just a review process.</p> <p>22 Q. You allowed it to take effect?</p> <p>23 A. I didn't get in the way of it.</p> <p>24 Q. Okay. Fair enough.</p> <p>25 Do you know if Ms. Ellis was allowed to</p>

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<p style="text-align: right;">Page 18</p> <p>1 engage in the formal corrective action process?</p> <p>2 MS. O'DRISCOLL: Objection, form.</p> <p>3 A. I don't understand what you mean by allowed to</p> <p>4 engage in it.</p> <p>5 Q. (BY MR. KENNARD) Was she -- okay. Let me ask</p> <p>6 you this: What is the formal corrective action process</p> <p>7 at the company?</p> <p>8 A. It's on here. Let's see. I mean, do you want</p> <p>9 me to read the whole thing that's on here?</p> <p>10 Q. Just tell me about it. Tell me what the</p> <p>11 corrective action process is.</p> <p>12 A. Are you asking me to summarize it?</p> <p>13 Q. I want you to tell me -- to testify from your</p> <p>14 experience as the top person in HR for the company what</p> <p>15 the corrective action -- formal corrective action</p> <p>16 process is.</p> <p>17 A. Is that we would normally give a written</p> <p>18 warning and then possibly a second written warning or a</p> <p>19 final written warning before termination, but that at</p> <p>20 any point if the manager feels the violations are</p> <p>21 severe or frequent, that it can be accelerated to</p> <p>22 immediate termination.</p> <p>23 Q. Okay. Was Ms. Ellis given the opportunity to</p> <p>24 correct a problem or situation?</p> <p>25 MS. O'DRISCOLL: Objection, form.</p>	<p style="text-align: right;">Page 20</p> <p>1 the opportunity to correct any problems or situations</p> <p>2 while she was on FMLA leave, do you?</p> <p>3 A. No.</p> <p>4 Q. Okay. And she was presented with issues the</p> <p>5 day she got back?</p> <p>6 A. Yes.</p> <p>7 Q. Was she given the opportunity to correct any</p> <p>8 problems or situations upon her coming back to work</p> <p>9 from FMLA leave?</p> <p>10 A. She was given the opportunity to respond and</p> <p>11 explain the concerns that were uncovered while she was</p> <p>12 out on leave.</p> <p>13 Q. But not the opportunity to correct; is that</p> <p>14 right?</p> <p>15 A. No.</p> <p>16 Q. Do you know of any instances in your</p> <p>17 experience as an HR professional for the company where</p> <p>18 employees who had problems or situations at work were</p> <p>19 given the opportunity to correct --</p> <p>20 MS. O'DRISCOLL: Objection, form.</p> <p>21 Q. (BY MR. KENNARD) -- their -- those issues?</p> <p>22 A. I'm sorry. Can you repeat that?</p> <p>23 Q. Sure. Do you know -- are you aware of any</p> <p>24 instances where an employee was given the opportunity</p> <p>25 to correct a problem or situation after having been</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. (BY MR. KENNARD) I'm just reading from the</p> <p>2 definition or the -- where the --</p> <p>3 A. I don't know which specific one you're talking</p> <p>4 about.</p> <p>5 Q. -- in the corrective action policy. Let's go</p> <p>6 back to "Termination of employment."</p> <p>7 A. Okay.</p> <p>8 Q. You read that to me.</p> <p>9 A. Yes.</p> <p>10 Q. In here it says, "Termination occurs when the</p> <p>11 employee has failed to correct a problem or problems or</p> <p>12 situations despite receipt of a written warning" --</p> <p>13 "and/or final written warning."</p> <p>14 Was Ms. Ellis given a written and/or</p> <p>15 final written warning?</p> <p>16 MS. O'DRISCOLL: Objection, form.</p> <p>17 A. She was given a written warning.</p> <p>18 Q. (BY MR. KENNARD) I'm asking you, was she?</p> <p>19 A. Yes.</p> <p>20 Q. When?</p> <p>21 A. In August, I believe, of 2012.</p> <p>22 Q. Was that before or after her FMLA leave?</p> <p>23 A. Before.</p> <p>24 Q. Okay. All right.</p> <p>25 You don't expect that she would have had</p>	<p style="text-align: right;">Page 21</p> <p>1 given a written warning?</p> <p>2 A. Yes.</p> <p>3 Q. But Ms. Ellis was not given that opportunity,</p> <p>4 correct?</p> <p>5 A. Not when she was presented with the issues on</p> <p>6 the day that she returned. She was given an</p> <p>7 opportunity to explain them.</p> <p>8 Q. Well, let's talk about the issues that were</p> <p>9 raised. From your understanding, why was Ms. Ellis</p> <p>10 terminated?</p> <p>11 A. There were several reasons, but the primary</p> <p>12 one was a lack of trust on her part by her supervisors</p> <p>13 based on several issues that could not be answered.</p> <p>14 Q. Let's talk about them. I want to know what</p> <p>15 your understanding is of why she was terminated. So</p> <p>16 let's go through each one.</p> <p>17 A. Okay.</p> <p>18 Q. So I'll let you start wherever you'd like.</p> <p>19 Let's start with -- so what was the first reason that</p> <p>20 you can think of that she was terminated?</p> <p>21 A. I believe we gave you a document that lists</p> <p>22 the issues that were presented to her.</p> <p>23 Q. And I can appreciate that, but I'm asking you</p> <p>24 to tell me from your understanding, as you sit here</p> <p>25 right now, why she was terminated.</p>

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<p style="text-align: right;">Page 14</p> <p>1 A. Oh. Okay.</p> <p>2 Q. Do you see the section -- the subsection</p> <p>3 called "Administrative leave"?</p> <p>4 A. Yes. The definition.</p> <p>5 Q. Okay. Can you read the administrative leave</p> <p>6 policy for me, please?</p> <p>7 MS. O'DRISCOLL: Objection, form.</p> <p>8 A. Well, it's not the policy. It's just the</p> <p>9 definition.</p> <p>10 Q. (BY MR. KENNARD) Okay. Can you -- can you</p> <p>11 read the definition of -- of -- for administrative</p> <p>12 leave?</p> <p>13 A. Yes. "Administrative leave is used when a</p> <p>14 supervisor/manager perceives that the employee may</p> <p>15 cause a potential threat to themselves or others or</p> <p>16 when the employee is behaving in a disruptive and/or</p> <p>17 unruly manner that management is not able to handle.</p> <p>18 The employee should be sent home for the day with pay,</p> <p>19 pending investigation of the situation by the</p> <p>20 supervisor/manager. HR must be informed when an</p> <p>21 employee has been put on administrative leave to assist</p> <p>22 with the investigation."</p> <p>23 Q. Okay. So you're HR, right?</p> <p>24 A. Yes.</p> <p>25 Q. Did you assist with an investigation?</p>	<p style="text-align: right;">Page 16</p> <p>1 administrative leave in light of this definition.</p> <p>2 A. The part that says the employee is behaving in</p> <p>3 a disruptive or unruly manner that management is not</p> <p>4 able to handle.</p> <p>5 Q. Okay. How was she acting in a disruptive or</p> <p>6 unruly manner that management was unable to handle?</p> <p>7 A. At that moment, she wasn't. The reports that</p> <p>8 they were investigating were things that they felt they</p> <p>9 were not able to handle and investigate with her in the</p> <p>10 center.</p> <p>11 Q. But she had been on FMLA leave prior to being</p> <p>12 placed on administrative leave, correct?</p> <p>13 A. Yes. I'm not talking about when she was on</p> <p>14 the administrative leave. The issues that were</p> <p>15 uncovered were not issues that occurred when she was on</p> <p>16 the administrative leave. They were things that</p> <p>17 occurred prior to that.</p> <p>18 Q. Okay. But she was allowed back into the</p> <p>19 facility, correct?</p> <p>20 A. That morning, yes.</p> <p>21 Q. That morning, was she acting in a disruptive</p> <p>22 or unruly manner?</p> <p>23 A. That morning, she was not.</p> <p>24 Q. All right. Let's look at "Termination of</p> <p>25 employment."</p>
<p style="text-align: right;">Page 15</p> <p>1 A. No, I did not.</p> <p>2 Q. Okay. And did -- were you aware -- or did you</p> <p>3 believe that Ms. Ellis was a potential threat to</p> <p>4 herself or others?</p> <p>5 A. No, I did not.</p> <p>6 Q. Okay. And you realize that she had just come</p> <p>7 back from brain surgery, right?</p> <p>8 MS. O'DRISCOLL: Objection, form.</p> <p>9 A. I realized she just came back from a procedure</p> <p>10 from FMLA.</p> <p>11 Q. (BY MR. KENNARD) Okay. Is there anything in</p> <p>12 this administrative leave policy that states an</p> <p>13 employee should be placed on administrative leave</p> <p>14 because a manager perceives she's having work issues?</p> <p>15 MS. O'DRISCOLL: Objection, form;</p> <p>16 mischaracterizes the document.</p> <p>17 A. I'm not sure what you mean by "work issues."</p> <p>18 Q. (BY MR. KENNARD) Issues with her employment.</p> <p>19 Does -- is that stated anywhere in this</p> <p>20 definition of "Administrative leave"?</p> <p>21 A. Not specifically the way you worded it.</p> <p>22 Q. Well, anywhere in here -- how would you word</p> <p>23 it?</p> <p>24 A. How would I word what?</p> <p>25 Q. To justify Ms. Ellis being placed on</p>	<p style="text-align: right;">Page 17</p> <p>1 A. Uh-huh.</p> <p>2 Q. Can you read that definition for me?</p> <p>3 A. Yes. "Termination of employment is a</p> <p>4 consequence for not meeting the expectations of a" --</p> <p>5 "of in" -- sorry, that's a typo -- "the formal</p> <p>6 corrective action process. Termination occurs when the</p> <p>7 employee has failed to correct a problem or situation</p> <p>8 despite receipt of a written warning and/or a final</p> <p>9 written warning. In addition to foregoing -- to the</p> <p>10 foregoing, termination may occur immediately without</p> <p>11 prior corrective action, depending on the nature,</p> <p>12 frequency, and severity of the violation. Termination</p> <p>13 decisions must be reviewed with human resources before</p> <p>14 they take effect."</p> <p>15 Q. Did you review the decision to terminate</p> <p>16 Ms. Ellis before it took effect?</p> <p>17 A. Yes.</p> <p>18 Q. And you approved it, correct?</p> <p>19 A. Yes. Well, I didn't approve it. I'm not</p> <p>20 someone that approved it. It's not an approval. It's</p> <p>21 just a review process.</p> <p>22 Q. You allowed it to take effect?</p> <p>23 A. I didn't get in the way of it.</p> <p>24 Q. Okay. Fair enough.</p> <p>25 Do you know if Ms. Ellis was allowed to</p>

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<p style="text-align: right;">Page 18</p> <p>1 engage in the formal corrective action process?</p> <p>2 MS. O'DRISCOLL: Objection, form.</p> <p>3 A. I don't understand what you mean by allowed to</p> <p>4 engage in it.</p> <p>5 Q. (BY MR. KENNARD) Was she -- okay. Let me ask</p> <p>6 you this: What is the formal corrective action process</p> <p>7 at the company?</p> <p>8 A. It's on here. Let's see. I mean, do you want</p> <p>9 me to read the whole thing that's on here?</p> <p>10 Q. Just tell me about it. Tell me what the</p> <p>11 corrective action process is.</p> <p>12 A. Are you asking me to summarize it?</p> <p>13 Q. I want you to tell me -- to testify from your</p> <p>14 experience as the top person in HR for the company what</p> <p>15 the corrective action -- formal corrective action</p> <p>16 process is.</p> <p>17 A. Is that we would normally give a written</p> <p>18 warning and then possibly a second written warning or a</p> <p>19 final written warning before termination, but that at</p> <p>20 any point if the manager feels the violations are</p> <p>21 severe or frequent, that it can be accelerated to</p> <p>22 immediate termination.</p> <p>23 Q. Okay. Was Ms. Ellis given the opportunity to</p> <p>24 correct a problem or situation?</p> <p>25 MS. O'DRISCOLL: Objection, form.</p>	<p style="text-align: right;">Page 20</p> <p>1 the opportunity to correct any problems or situations</p> <p>2 while she was on FMLA leave, do you?</p> <p>3 A. No.</p> <p>4 Q. Okay. And she was presented with issues the</p> <p>5 day she got back?</p> <p>6 A. Yes.</p> <p>7 Q. Was she given the opportunity to correct any</p> <p>8 problems or situations upon her coming back to work</p> <p>9 from FMLA leave?</p> <p>10 A. She was given the opportunity to respond and</p> <p>11 explain the concerns that were uncovered while she was</p> <p>12 out on leave.</p> <p>13 Q. But not the opportunity to correct; is that</p> <p>14 right?</p> <p>15 A. No.</p> <p>16 Q. Do you know of any instances in your</p> <p>17 experience as an HR professional for the company where</p> <p>18 employees who had problems or situations at work were</p> <p>19 given the opportunity to correct --</p> <p>20 MS. O'DRISCOLL: Objection, form.</p> <p>21 Q. (BY MR. KENNARD) -- their -- those issues?</p> <p>22 A. I'm sorry. Can you repeat that?</p> <p>23 Q. Sure. Do you know -- are you aware of any</p> <p>24 instances where an employee was given the opportunity</p> <p>25 to correct a problem or situation after having been</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. (BY MR. KENNARD) I'm just reading from the</p> <p>2 definition or the -- where the --</p> <p>3 A. I don't know which specific one you're talking</p> <p>4 about.</p> <p>5 Q. -- in the corrective action policy. Let's go</p> <p>6 back to "Termination of employment."</p> <p>7 A. Okay.</p> <p>8 Q. You read that to me.</p> <p>9 A. Yes.</p> <p>10 Q. In here it says, "Termination occurs when the</p> <p>11 employee has failed to correct a problem or problems or</p> <p>12 situations despite receipt of a written warning" --</p> <p>13 "and/or final written warning."</p> <p>14 Was Ms. Ellis given a written and/or</p> <p>15 final written warning?</p> <p>16 MS. O'DRISCOLL: Objection, form.</p> <p>17 A. She was given a written warning.</p> <p>18 Q. (BY MR. KENNARD) I'm asking you, was she?</p> <p>19 A. Yes.</p> <p>20 Q. When?</p> <p>21 A. In August, I believe, of 2012.</p> <p>22 Q. Was that before or after her FMLA leave?</p> <p>23 A. Before.</p> <p>24 Q. Okay. All right.</p> <p>25 You don't expect that she would have had</p>	<p style="text-align: right;">Page 21</p> <p>1 given a written warning?</p> <p>2 A. Yes.</p> <p>3 Q. But Ms. Ellis was not given that opportunity,</p> <p>4 correct?</p> <p>5 A. Not when she was presented with the issues on</p> <p>6 the day that she returned. She was given an</p> <p>7 opportunity to explain them.</p> <p>8 Q. Well, let's talk about the issues that were</p> <p>9 raised. From your understanding, why was Ms. Ellis</p> <p>10 terminated?</p> <p>11 A. There were several reasons, but the primary</p> <p>12 one was a lack of trust on her part by her supervisors</p> <p>13 based on several issues that could not be answered.</p> <p>14 Q. Let's talk about them. I want to know what</p> <p>15 your understanding is of why she was terminated. So</p> <p>16 let's go through each one.</p> <p>17 A. Okay.</p> <p>18 Q. So I'll let you start wherever you'd like.</p> <p>19 Let's start with -- so what was the first reason that</p> <p>20 you can think of that she was terminated?</p> <p>21 A. I believe we gave you a document that lists</p> <p>22 the issues that were presented to her.</p> <p>23 Q. And I can appreciate that, but I'm asking you</p> <p>24 to tell me from your understanding, as you sit here</p> <p>25 right now, why she was terminated.</p>

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<p style="text-align: right;">Page 22</p> <p>1 A. There were several policy violations. There</p> <p>2 were complaints that were looked into from the</p> <p>3 employees. Numerous complaints. There were a lot of</p> <p>4 different policy violations.</p> <p>5 Q. What else?</p> <p>6 A. Off the top of my head, I can't recall all the</p> <p>7 specifics without looking at the document. I didn't</p> <p>8 make the termination decision.</p> <p>9 Q. What policy violations?</p> <p>10 A. Giving her password out, hiring an employee --</p> <p>11 or hiring someone that she had a personal relationship</p> <p>12 with that wasn't disclosed or given approval for, were</p> <p>13 two of them.</p> <p>14 Q. Did you look into the personal relationship</p> <p>15 issue?</p> <p>16 A. I didn't, no. Her supervisors did.</p> <p>17 Q. Did you look into the password issue?</p> <p>18 A. No, I did not.</p> <p>19 Q. Before the termination decision was made, were</p> <p>20 you told about the personal relationship issue being a</p> <p>21 factor in her termination?</p> <p>22 A. Was I told about it?</p> <p>23 Q. Yes.</p> <p>24 A. Yes.</p> <p>25 Q. Okay. So you were aware that one of the</p>	<p style="text-align: right;">Page 24</p> <p>1 A. That would fall under the definition of</p> <p>2 "significant other."</p> <p>3 Q. Significant other. How so?</p> <p>4 A. She hired and then subsequently promoted a man</p> <p>5 who was the father of her child without disclosing that</p> <p>6 or getting approval from anyone in a direct reporting</p> <p>7 relationship.</p> <p>8 Q. We're talking about Troi, right?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Do you know if Troi and Ms. Ellis were</p> <p>11 related by blood?</p> <p>12 A. I don't have that information, no.</p> <p>13 Q. Do you have any reason to believe that they</p> <p>14 are not related by blood?</p> <p>15 A. Do I have any reason to what?</p> <p>16 Q. Do you have any reason to dispute that they</p> <p>17 are not related by blood?</p> <p>18 A. No.</p> <p>19 Q. Do you have any reason to dispute that they</p> <p>20 are not related by virtue of adoption?</p> <p>21 A. No.</p> <p>22 Q. Do you have any reason to dispute that they</p> <p>23 are not related by virtue of marriage?</p> <p>24 A. No.</p> <p>25 Q. Do you have any reason to believe they are not</p>
<p style="text-align: right;">Page 23</p> <p>1 reasons for her termination before she was terminated</p> <p>2 was because of some purported personal relationship,</p> <p>3 right?</p> <p>4 A. Yes, I was aware of it.</p> <p>5 Q. Okay.</p> <p>6 (Exhibit 2 was marked.)</p> <p>7 Q. (BY MR. KENNARD) I'm going to hand you what</p> <p>8 we're marking as Exhibit 2 to your deposition.</p> <p>9 Do you recognize this document?</p> <p>10 A. Yes.</p> <p>11 Q. What is this?</p> <p>12 A. It looks a little different because there's</p> <p>13 things at the top that I don't recognize, but the</p> <p>14 content of it is our employment of relatives policy.</p> <p>15 Q. Okay. And can you read the definition of</p> <p>16 "Relative" in Subsection 2 under "Definitions" where it</p> <p>17 says "Relative"?</p> <p>18 A. Yes. "Relative is defined as any of the</p> <p>19 following including by virtue of blood, adoption,</p> <p>20 marriage, or remarriage, or domestic partnership</p> <p>21 (significant other or affianced), spouse, children,</p> <p>22 grandchildren, parents, grandparents, siblings, uncles,</p> <p>23 aunts, nephews, nieces, and cousins."</p> <p>24 Q. So how did Ms. Ellis violate the personal</p> <p>25 relationship policy?</p>	<p style="text-align: right;">Page 25</p> <p>1 related by virtue of remarriage?</p> <p>2 A. No.</p> <p>3 Q. Okay. Do you have any reason to believe that</p> <p>4 they are not related by virtue of domestic partnership?</p> <p>5 A. No.</p> <p>6 Q. Do you have any reason to dispute that they</p> <p>7 are not related by virtue of them being a spouse to one</p> <p>8 another?</p> <p>9 A. No.</p> <p>10 Q. Do you have any reason to believe that they</p> <p>11 are not related by virtue of one being a child of</p> <p>12 another?</p> <p>13 A. No.</p> <p>14 Q. Do you have any reason to dispute that they</p> <p>15 are not related by virtue of them being a grandchild to</p> <p>16 one another?</p> <p>17 A. No.</p> <p>18 Q. Do you have any reason to dispute that they</p> <p>19 are not related by virtue of being a parent of one</p> <p>20 another?</p> <p>21 A. No.</p> <p>22 Q. Or a grandparent?</p> <p>23 A. No.</p> <p>24 Q. A sibling?</p> <p>25 A. No.</p>

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<p style="text-align: right;">Page 26</p> <p>1 Q. An uncle?</p> <p>2 A. No.</p> <p>3 Q. An aunt?</p> <p>4 A. No.</p> <p>5 Q. A nephew?</p> <p>6 A. No.</p> <p>7 Q. A niece?</p> <p>8 A. No.</p> <p>9 Q. Or a cousin?</p> <p>10 A. No.</p> <p>11 Q. Are you aware of any instances where someone</p> <p>12 that is deemed a relative was allowed to work at the</p> <p>13 company?</p> <p>14 A. Several, yes.</p> <p>15 Q. Okay. And were those individuals terminated?</p> <p>16 A. No.</p> <p>17 Q. In fact, you're one of them, right?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Who did you hire?</p> <p>20 A. I didn't specifically hire anyone.</p> <p>21 Q. Okay. Didn't your stepdaughter work for the</p> <p>22 company?</p> <p>23 A. She did.</p> <p>24 Q. Did you make it known that your stepdaughter</p> <p>25 was working there?</p>	<p style="text-align: right;">Page 28</p> <p>1 A. "This policy applies to all employees, and</p> <p>2 independent contractors, agency contractors, agency</p> <p>3 temporary staff, and interns."</p> <p>4 Q. Okay. So your stepdaughter was a temporary</p> <p>5 worker, correct?</p> <p>6 A. Yes.</p> <p>7 Q. So this policy would have applied to you and</p> <p>8 her, correct?</p> <p>9 A. Yes.</p> <p>10 Q. Let's look at the guidelines.</p> <p>11 A. Uh-huh.</p> <p>12 Q. Can you read that first paragraph for me,</p> <p>13 please?</p> <p>14 A. "ECFMG will not hire or employ anyone in a</p> <p>15 reporting relationship within the following" -- "with</p> <p>16 the following relation to an existing part-time or</p> <p>17 full-time employee: Spouse, parent, child or sibling,</p> <p>18 including step or adopted relationships, grandparent or</p> <p>19 grandchild or in-laws to the same degree.</p> <p>20 ECFMG will not hire or employ anyone on a</p> <p>21 full-time or part-time basis in the same department</p> <p>22 with a supervisory relationship to an existing</p> <p>23 full-time or part-time employee."</p> <p>24 Q. Were you in a supervisory relationship to your</p> <p>25 stepdaughter?</p>
<p style="text-align: right;">Page 27</p> <p>1 A. Yes.</p> <p>2 Q. Were you terminated?</p> <p>3 A. No.</p> <p>4 Q. You're still there, right?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Is your stepdaughter a relative to you?</p> <p>7 A. Yes. Yes.</p> <p>8 Q. What department did your stepdaughter work in?</p> <p>9 A. She worked in the ERAS department, and she</p> <p>10 worked in the HR department.</p> <p>11 Q. Okay. The same HR department that you're the</p> <p>12 head of?</p> <p>13 A. Yes.</p> <p>14 Q. Do you believe that's a violation of the</p> <p>15 policy?</p> <p>16 A. No.</p> <p>17 Q. Why not?</p> <p>18 A. Because there was very clear disclosure and</p> <p>19 approval given for that, and it was also a part-time,</p> <p>20 temporary summer help and it was approved by an</p> <p>21 executive. Actually, it was requested by an executive.</p> <p>22 Q. Okay. Let's look at "Eligibility."</p> <p>23 A. Uh-huh.</p> <p>24 Q. Can you read that sentence under</p> <p>25 "Eligibility"?</p>	<p style="text-align: right;">Page 29</p> <p>1 A. Not an immediate supervisor.</p> <p>2 Q. But a supervisor nonetheless?</p> <p>3 A. Above the supervisor, yes.</p> <p>4 Q. And you see where it says there that "ECFMG</p> <p>5 will not hire or employ anyone in a reporting</p> <p>6 relationship including a step or adoptive</p> <p>7 relationship." Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. So you were in violation of the policy,</p> <p>10 correct?</p> <p>11 MS. O'DRISCOLL: Objection, form.</p> <p>12 A. No.</p> <p>13 Q. (BY MR. KENNARD) Was your stepdaughter hired</p> <p>14 in a part-time role?</p> <p>15 A. Yes.</p> <p>16 Q. And was she in the same department as you?</p> <p>17 A. Yes.</p> <p>18 Q. At the time that Artis Ellis was terminated,</p> <p>19 Troi was not her spouse, right?</p> <p>20 A. Correct.</p> <p>21 Q. Troi was not her parent, right?</p> <p>22 A. I'm sorry, what?</p> <p>23 Q. Troi was not her parent, right?</p> <p>24 A. Right.</p> <p>25 Q. She was not Troy's parent, right?</p>